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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/840,546	04/23/2001	Tadamasa Kitsukawa	50P4369	3930

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EXAMINER

SRIVASTAVA, VIVEK

ART UNIT	PAPER NUMBER
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2617

DATE MAILED: 10/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/840,546

Applicant(s)

KITSUKAWA ET AL.

Examiner

Vivek Srivastava

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– The MAILING DATE of this communication appears on the cover sheet with the correspondence address –
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 August 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 and 8-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 and 8-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>1 and 2</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

Applicant argues Klosterman fails to teach or suggest the amended limitations "each web site channel listing is correlated to its own dedicated virtual channel number" and "a user can choose a channel by scrolling to the channel and toggling a selector element, with information about content on each channel being displayed in the information panel as the user scrolls across each respective channel."

It is noted that since amended limitations are new, Applicant's arguments with respect to claims have been considered but are moot in view of the new ground(s) of rejection.

Applicant argues, the provisional obviousness-type double patenting rejections are noted; since neither this application nor the relied upon applications have yet been allowed, Applicant will hold in abeyance the filing of a terminal disclaimer (and the concomitant fees) until such time as a claim in this application is indicated as being allowable but for obviousness type double patenting.

It is noted that the double patenting rejection is provided in the previous office action is maintained in response to deferring filing of the terminal disclaimer.

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1 – 6 and 8 – 19 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1 – 40 of copending Application No. 09/839,482. Although the conflicting claims are not identical, they are not patentably distinct from each other because it would have been obvious to modify the claims of copending application 09/839,482 to get the claims in the instant invention.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claims 1 – 6 and 8 – 19 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1 – 33

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of copending Application No. 09/840,327. Although the conflicting claims are not identical, they are not patentably distinct from each other because it would have been obvious to modify the claims of copending application 09/840,327 to get the claims in the instant invention.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claims 1 – 6 and 8 – 19 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1 - 27 of copending Application No. 09/839,630. Although the conflicting claims are not identical, they are not patentably distinct from each other because it would have been obvious to modify the claims of 09/839,630 to get the claims in the instant invention.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1 – 6 and 8 – 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Klosterman et al (US 6,469,753) in view of Connelly (US 6,144,376) and Mankovitz (US 5,559,550).

Regarding claims 1, 2 and 11, Klosterman discloses a electronic program guide for use in conjunction with an interactive television (fig 6b, col 4 lines 24 – 62). The EPG panel in Klosterman includes at least one television channel listing, at least one Web site channel listing 640 (fig 6b) with the information panel displaying information relevant to a channel on the program guide. Klosterman further discloses the television channel information is received from distribution center 110 or provider 140 (see fig 1) and that internet information is provided from a link on the Internet inherently connecting to an ISP (col 4 lines 63 – 67). Klosterman further inherently discloses a interactive television server (i.e. a server which generates and distributes the EPG) and signal source i.e. distribution center 110 or provider 140.

Klosterman fails to disclose each web site channel listing correlated to its own dedicated virtual channel number and at least one numeric web site channel listing unrelated to a television channel.

In analogous art, Connelly teaches a method and apparatus for merging, displaying and accessing personal computer content listings via a television user interface. Connelly teaches providing a user with dedicated channels pertaining to web sites (see col 4 lines 45 – 52), wherein the channels include Internet listings, web sites, local or on-line games etc. (see col 2 lines 62 – 66). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to

modify Klosterman, based on the teachings of Connelly, to include a dedicated web site channel for the benefit of providing a user with vast amount of a variety of information associated with the Internet including internet listings, web sites, on-line games on a dedicated channel thereby further enhancing a user's television experience.

Klosterman fails to disclose information about content on each channel being displayed in the information panel as the user scrolls across each respective channel.

In analogous art, Mankovitz teaches an EPG system with a multi-panel display (see fig 9), wherein when a user scrolls the programming listed in the EPG additional detailed information of the current program highlighted is displayed in the panel (see col 10 lines 55 – 62). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Klosterman, based on the teachings of Connelly, to include information about content on each channel being displayed in the information panel as the user scrolls across each respective channel for the benefit of proving a user with enhanced detail information about a highlighted or selected program in the EPG thus facilitating easier selection of a desired program.

Regarding claims 3 – 4 and 12 –13, Klosterman fails to disclose the claimed wherein the EPG is displayed by toggling an EPG button, wherein the EPG button is located on an interactive television and wherein the EPG button is located on a remote control unit.

Official Notice is taken it would have been well known to place a EPG button on a remote control or television to enable quick and easy access of the EPG. Therefore, it would have been obvious to one having ordinary skill in the art at time the invention was

made to modify Klosterman to include the claimed limitation for the benefit of quick and easy access of the EPG.

Regarding claims 5, 6, 14 and 15, Klosterman discloses a virtual channel indicator associated with a Web site listing and opening communications with a Web site listing by selecting the virtual channel indicator (see col 9 lines 19 – 53).

Regarding claims 8 – 10 and 16 – 19, Klosterman discloses an EPG comprising an information panel, the information panel displaying information relevant to a channel on the program guide, wherein the electronic program guide includes content from at least one Web server, wherein the EPG further includes content from at least one television signal source, wherein the EPG further includes content from at least on interactive television system server (see fig 6b, col 4 lines 48 – 67) and that internet information is provided from a link on the Internet inherently connecting to an ISP (col 4 lines 63 – 67). Klosterman further inherently discloses a interactive television server (i.e. a server which generates and distributes the EPG) and signal source i.e. distribution center 110 or provider 140).

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Ellis et al (US 2004/0117831) – Interactive TV program guide

Matthews, III et al. (6,025,837) – EPG with hyperlinks

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vivek Srivastava whose telephone number is (571) 272-7304. The examiner can normally be reached on Monday – Friday from 9 am to 6 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Kelley can be reached on (571) 272 – 7331. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Vs
10/15/05



VIVEK SRIVASTAVA
PRIMARY EXAMINER